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01/10/2023
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Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
40A-0158-R-2022
Lockman, Melissa
12.00

IN THE WATER COURT OF THE STATE OF MONTANA LOWER MISSOURI DIVISION MUSSELSHELL RIVER ABOVE ROUNDUP BASIN (40A) PRELIMINARY DECREE

| CLAIMANT: Cayuse Livestock Co. | CASE 40A-0158-R-2022 | | |
|--------------------------------|----------------------|----------------|--|
| | 40A 36576-00 | 43BV 114050-00 | |
| OBJECTOR: Cayuse Livestock Co. | 40A 36577-00 | 40A 30109102 | |
| | 40A 36580-00 | 40A 30109104 | |
| ON MOTION OF THE MONTANA WATER | 40A 36584-00 | 40A 30109105 | |
| COURT | 40A 36586-00 | 40A 30109106 | |
| | 40A 36587-00 | 40A 30109107 | |
| | 43BV 114046-00 | 40A 30109108 | |
| | 43BV 114047-00 | | |

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Montana Water Court on the above stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

MASTER'S REPORT

The above-captioned claims¹ appeared in the Preliminary Decree for the Musselshell River above Roundup (Basin 40A) issued on June 7, 2017. The claims are

¹ Claims 43BV 114046-00, 43BV 114047-00, and 43BV 114050-00 have been removed from this Case so the issues on the claims may be resolved after proper notice has been given in both Basin 40A and Basin 43BV.

owned by Cayuse Livestock Co. A number of claims received self-objections from Cayuse Livestock, and all of the claims received issue remarks during the DNRC's claims reexamination. Issue remarks are notations identifying potential legal or factual issues with water rights, and the Water Court is required to resolve these potential issues.

FINDINGS OF FACT

40A 36576-00

- 1. Claim 40A 36576-00 appeared in the Basin 40A Preliminary Decree as a claim for stock drinking directly from a spring in the NESWSW of Section 17, T5N, R15E, Sweet Grass County.
 - 2. The claim received the following issue remarks:

AN AMENDMENT WAS SUBMITTED ON 11/29/2016 REQUESTING TO AMEND THE PLACE OF USE. THE AMENDMENT WAS NOT PROCESSED. THE AMENDMENT WILL BE REVIEWED BY THE COURT AFTER THE ISSUANCE OF THE PRELIMINARY DECREE.

AN AMENDMENT WAS SUBMITTED ON 11/29/2016 REQUESTING TO AMEND THE POINT OF DIVERSION, PERIOD OF DIVERSION, MEANS OF CONVEYANCE, FLOW RATE, VOLUME, AND PERIOD OF USE. THE AMENDMENT WAS NOT PROCESSED. THE AMENDMENT WILL BE REVIEWED AFTER THE ISSUANCE OF THE PRELIMINARY DECREE.

THE POINT OF DIVERSION APPEARS TO BE INCORRECT. THE POINT OF DIVERSION APPEARS TO BE IN THE NENENE SEC 19 TWP 5N RGE 15E SWEET GRASS COUNTY.

- 3. On August 24, 2022, Claimant filed the Affidavit of William Donald. Mr. Donald has an ownership interest in Cayuse Livestock and has lived on Claimant's property or in the area almost his entire life. Mr. Donald is very familiar with the historical use of water on Cayuse Livestock property as his family has been farming the property for over 100 years, when his grandfather began purchasing surrounding farm operations.
- 4. The amendment submitted in 2016 also requests that the point of diversion and place of use be modified to the NWNWNW of Section 19, T5N, R15E, Sweet Grass County. In addition, the amendment states the claim actually involves two ponds one at the point of diversion and a second in the S2SE of Section 17, T5N, R15E, Sweet Grass County.
- 5. In his affidavit, Mr. Donald requests that the point of diversion and place of use be modified to the NWNWNW of Section 19, T5N, R15E, Sweet Grass County. The map provided in support of Mr. Donald's affidavit only shows the point of diversion and place of use in the NWNWNW of Section 19, T5N, R15E.

- 6. The affidavit filed in support of the amendment, also from Mr. Donald, states that the reservoir in Section 17 was used for stock since the 1950s. Additionally, the map provided in support of the amendment shows the point of diversion in Section 19 as being in the NENENE, not the NWNWNW.
- 7. Claimant objected to the priority date of claim 40A 36576-00. Mr. Donald's affidavit requests that the priority date be modified from October 1, 1955 to March 21, 1891.
- 8. Based on the information provided by Mr. Donald, livestock grazed throughout Section 19 since March 21, 1891 and were not fenced from the spring in the NWNWNW of Section 19. Mr. Donald's affidavit does not request the reservoir in Section 17 be added to the claim and does not provide any evidence supporting use of the pond in Section 17 as of March 21, 1891.

40A 36577-00

- 9. Claim 40A 36577-00 appeared in the Basin 40A Preliminary Decree as a claim for stock drinking from a spring in the NWNWNE of Section 23, T5N, R14E, Sweet Grass County. The claim was decreed with a priority date of April 1, 1954.
- 10. Claimant objected to the priority date of claim 40A 36577-00. Mr. Donald's affidavit requests that the priority date be modified from April 1, 1954 to March 21, 1891.
- 11. Based on the information provided by Mr. Donald, livestock grazed throughout Section 23 since March 21, 1891 and were not fenced from the spring in the NWNWNE of Section 23. The Berg Family and the Van Cleve Family, the predecessors to Cayuse Livestock, grazed livestock on this property.
 - 12. Claim 40A 36577-00 also received the following issue remark:

AN AMENDMENT WAS SUBMITTED ON 11/29/2016 REQUESTING TO AMEND THE PERIOD OF DIVERSION AND PERIOD OF USE. THE AMENDMENT WAS NOT PROCESSED. THE AMENDMENT WILL BE REVIEWED AFTER THE ISSUANCE OF THE PRELIMINARY DECREE.

13. The amendment requests the period of diversion and period of use be modified to year-round.

40A 36580-00

- 14. Claim 40A 36580-00 appeared in the Basin 40A Preliminary Decree as a claim for stock drinking from a spring in the NESWNE of Section 20, T5N, R14E, Sweet Grass County. The claim was decreed with a priority date of June 30, 1957.
- 15. Claimant objected to claim 40A 36580-00 based on priority date. Based on the information in Mr. Donald's affidavit, livestock have used water from the claimed spring since the land was patented to Alice Van Cleve on December 19, 1910.

40A 36584-00

- 16. Claim 40A 36584-00 appeared in the Basin 40A Preliminary Decree as a claim for stock drinking from a spring in the NESESE of Section 19, T5N, R15E, Sweet Grass County. The claim was decreed with a priority date of May 1, 1954.
- 17. Claimant objected to claim 40A 36584-00 based on priority date. Based on the information in Mr. Donald's affidavit, livestock historically grazed through Section 19, T5N, R15E and were not fenced from the spring in the NESESE. Therefore, Claimant requests the priority date be modified to March 21, 1891.
 - 18. Claim 40A 36584-00 also received the following issue remark:

AN AMENDMENT WAS SUBMITTED ON 11/29/2016 REQUESTING TO AMEND THE PERIOD OF DIVERSION AND PERIOD OF USE. THE AMENDMENT WAS NOT PROCESSED. THE AMENDMENT WILL BE REVIEWED AFTER THE ISSUANCE OF THE PRELIMINARY DECREE.

19. The amendment requests the period of diversion and period of use be modified to year-round.

40A 36586-00

- 20. Claim 40A 36586-00 appeared in the Basin 40A Preliminary Decree as a claim for a stock well in the SWSWSE of Section 24, T5N, R14E, Sweet Grass County. The claim was decreed with a priority date of April 1, 1954.
- 21. Claimant objected to claim 40A 36586-00 based on priority date. Based on the information in Mr. Donald's affidavit, livestock have used water from the claimed well since the land was patented to Alice Valgamore on July 25, 1916. Mr. Donald's family is Ms. Valgamore's successor.
 - 22. Claim 40A 36586-00 also received the following issue remark:

23. The amendment requests the period of diversion and period of use be modified to year-round. Mr. Donald's affidavit supports historical year-round stock use of the claimed well.

40A 36587-00

- 24. Claim 40A 36587-00 appeared in the Basin 40A Preliminary Decree as a claim for stock drinking from a spring in the NENESW of Section 15, T5N, R14E, Sweet Grass County. The claim was decreed with a priority date of April 1, 1954.
- 25. Claimant objected to claim 40A 36587-00 based on priority date. Based on the information in Mr. Donald's affidavit, livestock historically grazed throughout Section 15, T5N, R15E and were not fenced from the spring in the NENESW. Therefore, Claimant requests the priority date be modified to March 21, 1891.
 - 26. Claim 40A 36587-00 also received the following issue remark:

AN AMENDMENT WAS SUBMITTED ON 11/29/2016 REQUESTING TO AMEND THE PERIOD OF DIVERSION AND PERIOD OF USE. THE AMENDMENT WAS NOT PROCESSED. THE AMENDMENT WILL BE REVIEWED AFTER THE ISSUANCE OF THE PRELIMINARY DECREE.

27. The amendment requests the period of diversion and period of use be modified to year-round.

40A 30109102

- 28. Claim 40A 30109102 appeared in the Basin 40A Preliminary Decree as a claim for stock drinking from a spring in the NENENE of Section 21, T5N, R14E, Sweet Grass County. The claim was decreed with a priority date of April 1, 1960.
- 29. Claimant objected to claim 40A 30109102 based on priority date. Based on the information in Mr. Donald's affidavit, livestock historically grazed in the NENENE of Section 21 and were not fenced from the claimed source. Therefore, Claimant requests the priority date be modified to March 21, 1891.

40A 30109104

30. Claim 40A 30109104 appeared in the Basin 40A Preliminary Decree as a claim for stock drinking from a spring in the NENWSW of Section 17, T5N, R15E, Sweet Grass County. The claim was decreed with a priority date of April 1, 1960.

31. Claimant objected to claim 40A 30109104 based on priority date. Based on the information in Mr. Donald's affidavit, livestock historically grazed in the NENWSW of Section 17 and were not fenced from the claimed source. Therefore, Claimant requests the priority date be modified to March 21, 1891.

40A 30109105

- 32. Claim 40A 30109105 appeared in the Basin 40A Preliminary Decree as a claim for stock drinking from a spring in the SWSENE of Section 13, T5N, R14E, Sweet Grass County. The claim was decreed with a priority date of April 1, 1960.
- 33. Claimant objected to claim 40A 30109105 based on priority date. Based on the information in Mr. Donald's affidavit, livestock historically grazed throughout Section 13 and were not fenced from the claimed source. Therefore, Claimant requests the priority date be modified to March 21, 1891.

Source Name Objections

34. Claimant objected to the source name of each claim, stating the claimed springs do not flow into named sources. However, the source names reflected on the abstracts reflect the DNRC's standardized naming protocols for springs. In their March 9, 2022 filing, Claimant withdrew their objection to the source names.

Notice-Type Issue Remarks

35. Claims 40A 30109102, 40A 30109104, 40A 30109105, 40A 30109106, 40A 30109107, and 40A 30109108 received notice-type issue remark:

THIS EXEMPT CLAIM WAS FILED ON 11/09/2016. THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 40A DECREE ISSUED 05/07/1985.

36. This remark served its notice purpose and should be removed from the claim abstracts.

PRINCIPLES OF LAW

- 1. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Section 85-2-227, MCA; Rule 10, W.R.Adj.R.
- 2. Prima facie proof may be contradicted and overcome by a preponderance of the evidence. Rule 19, W.R.Adj.R.

- 3. A preponderance of the evidence is evidence that shows a fact is "more probable than not." *Hohenlohe v. State*, 2010 MT 203, ¶ 33, 357 Mont. 438, 240 P.3d 628.
- 4. If prima facie status is overcome, the burden shifts back to the claimant to demonstrate historical use. *79 Ranch v. Pitsch*, 204 Mont. 426, 432-33, 666 P.2d 215, 218 (1983).
- 5. Section 85-2-248(2), MCA, requires that the Water Court resolve all issue remarks that are not resolved through the objection process. *See also* Rule 7, W.R.Adj.R.
- 6. The Water Court may use information submitted by the DNRC, the Statement of Claim, and any other data obtained by the Court to evaluate a water right. Sections 85-2-227, -231(2), MCA.
- 7. When resolving issue remarks, the Water Court must weigh the information resulting in the issue remark and the issue remark against the claimed water right. Section 85-2-247(2), MCA. The factual evidence on which an issue remark is based must meet the preponderance of evidence standard before the prima facie status of a claim is overcome. 43Q 200996-00 et al., Order Establishing Volume and Order Closing Case, at 18, June 8, 2015.
- 8. The party seeking to overcome the prima facie status of a Statement of Claim bears the burden of proof; this burden also applies to a claimant's objection to his own claim. *Nelson v. Brooks*, 2014 MT 120, ¶¶ 34, 37, 375 Mont. 86, 329 P.3d 558.
- 9. After the issuance of a temporary preliminary decree and close of the objection period in a basin, a claimant may amend their Statement of Claim. Section 85-2-233(6), MCA.
- 10. A claimant asserting an amendment to its claim has the burden to show that the historical use of the claim is accurately reflected by the requested amendment. *Nelson v. Brooks*, 2014 MT 120, ¶ 34, 375 Mont. 86, 329 P.3d 558.

CONCLUSIONS OF LAW

40A 36576-00

1. Claimant showed by a preponderance of the evidence that the spring is located in the NWNWNW of Section 19, T5N, R15E, Sweet Grass County. The point of

diversion and place of use should be modified accordingly. This modification resolves the point of diversion issue remark, and the remark should be removed from the claim.

- 2. Claimant showed by a preponderance of the evidence that the priority date of claim 40A 36576-00 is March 21, 1891. Based on Mr. Donald's affidavit, livestock historically grazed throughout Section 19 since at least March 21, 1891. This evidence supports modifying the priority date to March 21, 1891 for the point of diversion and place of use in the NWNWNW of Section 19, T5N, R15E, Sweet Grass County. The priority date should be modified accordingly. This modification resolves Claimant's objection to the priority date of claim 40A 36576-00.
- 3. The amendment also requests modifying the period of diversion and period of use to year-round. Claimant showed by a preponderance of the evidence that livestock historically took water directly from the spring year-round. Therefore, the period of diversion and period of use should be modified to January 1 to December 31.

40A 36577-00

- 4. Claimant overcame the prima facie status of claim 40A 36577-00 and showed by a preponderance of the evidence that the priority date is March 21, 1891. The priority date should be modified accordingly.
- 5. Claimant also showed by a preponderance of the evidence that livestock historically took water from the source year-round. Therefore, the period of diversion and period of use should be modified to January 1 to December 31.
- 6. These modifications resolve Claimant's objection to claim 40A 36577-00 and the amendment issue remark. The issue remark should be removed from the claim abstract.

40A 36580-00

7. Claimant overcame the prima facie status of claim 40A 36577-00 and showed by a preponderance of the evidence that the priority date is December 19, 1910. The priority date should be modified accordingly. This resolves Claimant's objection to claim 40A 36577-00.

40A 36584-00

- 8. Claimant overcame the prima facie status of claim 40A 36584-00 and showed by a preponderance of the evidence that the priority date is March 21, 1891. The priority date should be modified accordingly.
- 9. Claimant also showed by a preponderance of the evidence that livestock historically took water from the source year-round. Therefore, the period of diversion and period of use should be modified to January 1 to December 31.
- 10. These modifications resolve Claimant's objection to claim 40A 36584-00 and the amendment issue remark. The issue remark should be removed from the claim abstract.

40A 36586-00

- 11. Claimant overcame the prima facie status of claim 40A 36586-00 and showed by a preponderance of the evidence that the priority date is July 25, 1916. The priority date should be modified accordingly.
- 12. Claimant also showed by a preponderance of the evidence that livestock historically took water from the source year-round. Therefore, the period of diversion and period of use should be modified to January 1 to December 31.
- 13. These modifications resolve Claimant's objection to claim 40A 36586-00 and the amendment issue remark. The issue remark should be removed from the claim abstract.

40A 36587-00

- 14. Claimant overcame the prima facie status of claim 40A 36587-00 and showed by a preponderance of the evidence that the priority date is March 21, 1891. The priority date should be modified accordingly.
- 15. Claimant also showed by a preponderance of the evidence that livestock historically took water from the source year-round. Therefore, the period of diversion and period of use should be modified to January 1 to December 31.
- 16. These modifications resolve Claimant's objection to claim 40A 36587-00 and the amendment issue remark. The issue remark should be removed from the claim abstract.

40A 30109102

17. Claimant overcame the prima facie status of claim 40A 30109102 and showed by a preponderance of the evidence that the priority date is March 21, 1891. The priority date should be modified accordingly. This resolves Claimant's objection to claim 40A 30109102.

40A 30109104

18. Claimant overcame the prima facie status of claim 40A 30109104 and showed by a preponderance of the evidence that the priority date is March 21, 1891. The priority date should be modified accordingly. This resolves Claimant's objection to claim 40A 30109104.

40A 30109105

19. Claimant overcame the prima facie status of claim 40A 30109105 and showed by a preponderance of the evidence that the priority date is March 21, 1891. The priority date should be modified accordingly. This resolves Claimant's objection to claim 40A 30109105.

Source Name Objections

20. Claimant withdrew their objections to the source name of each claim.

Notice-Type Issue Remark

21. The notice-type issue remark described in Finding of Fact No. 35 served its notice purpose and should be removed from the claim abstracts.

RECOMMENDATIONS

Based on the foregoing Findings of Fact and Conclusions of Law, this Master recommends that the Court adopt the changes as outlined above.

A post decree abstract of each water right claim reflecting the recommended changes is attached to this Report.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via Electronic Mail:

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ABSTRACT OF WATER RIGHT CLAIM

MUSSELSHELL RIVER, ABOVE ROUNDUP

BASIN 40A

Water Right Number: 40A 36576-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: CAYUSE LIVESTOCK CO

316A MELVILLE RD

BIG TIMBER, MT 59011 7704

Priority Date: MARCH 21, 1891

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS

OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY

TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR

STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND

HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name SPRING, UNNAMED TRIBUTARY OF FISH CREEK

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

ID Govt Lot Otr Sec Sec Twp Rge County

1 NWNWNW 19 5N 15E SWEET GRASS

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: FLOWING

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

ID Acres Govt Lot Otr Sec Sec Twp Rge County

1 NWNWNW 19 5N 15E SWEET GRASS

ABSTRACT OF WATER RIGHT CLAIM

MUSSELSHELL RIVER, ABOVE ROUNDUP

BASIN 40A

Water Right Number: 40A 36577-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: CAYUSE LIVESTOCK CO

316A MELVILLE RD

BIG TIMBER, MT 59011 7704

Priority Date: MARCH 21, 1891

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS

OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY

TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR

STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND

HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name SPRING, UNNAMED TRIBUTARY OF FISH CREEK

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

ID Govt Lot Otr Sec Sec Twp Rge County

1 NWNWNE 23 5N 14E SWEET GRASS

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: FLOWING

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

ID Acres Govt Lot Otr Sec Sec Twp Rge County

1 NWNWNE 23 5N 14E SWEET GRASS

ABSTRACT OF WATER RIGHT CLAIM

MUSSELSHELL RIVER, ABOVE ROUNDUP

BASIN 40A

Water Right Number: 40A 36580-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: CAYUSE LIVESTOCK CO

316A MELVILLE RD

BIG TIMBER, MT 59011 7704

Priority Date: DECEMBER 19, 1910

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS

OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY

TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR

STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND

HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name SPRING, UNNAMED TRIBUTARY OF FISH CREEK

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

ID Govt Lot Otr Sec Sec Twp Rge County

1 NESWNE 20 5N 14E SWEET GRASS

Period of Diversion: APRIL 15 TO SEPTEMBER 15

Diversion Means: FLOWING

Period of Use: APRIL 15 TO SEPTEMBER 15

Place of Use:

ID Acres Govt Lot Otr Sec Sec Twp Rge County

1 NESWNE 20 5N 14E SWEET GRASS

ABSTRACT OF WATER RIGHT CLAIM

MUSSELSHELL RIVER, ABOVE ROUNDUP

BASIN 40A

Water Right Number: 40A 36584-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: CAYUSE LIVESTOCK CO

316A MELVILLE RD

BIG TIMBER, MT 59011 7704

Priority Date: MARCH 21, 1891

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS

OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY

TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR

STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND

HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name SPRING, UNNAMED TRIBUTARY OF FISH CREEK

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

ID Govt Lot Otr Sec Sec Twp Rge County

1 NESESE 19 5N 15E SWEET GRASS

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: FLOWING

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

ID Acres Govt Lot Otr Sec Sec Twp Rge County

1 NESESE 19 5N 15E SWEET GRASS

ABSTRACT OF WATER RIGHT CLAIM

MUSSELSHELL RIVER, ABOVE ROUNDUP

BASIN 40A

Water Right Number: 40A 36586-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: CAYUSE LIVESTOCK CO

316A MELVILLE RD

BIG TIMBER, MT 59011 7704

Priority Date: JULY 25, 1916

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: 8.00 GPM

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR

STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND

HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name GROUNDWATER

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

ID Govt Lot Otr Sec Sec Twp Rge County

1 SWSWSE 24 5N 14E SWEET GRASS

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: WELL

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

ID Acres Govt Lot Qtr Sec Sec Twp Rge County

1 SWSWSE 24 5N 14E SWEET GRASS

ABSTRACT OF WATER RIGHT CLAIM

MUSSELSHELL RIVER, ABOVE ROUNDUP

BASIN 40A

Water Right Number: 40A 36587-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: CAYUSE LIVESTOCK CO

316A MELVILLE RD

BIG TIMBER, MT 59011 7704

Priority Date: MARCH 21, 1891

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS

OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY

TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR

STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND

HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name SPRING, UNNAMED TRIBUTARY OF FISH CREEK

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

ID Govt Lot Otr Sec Sec Twp Rge County

1 NENESW 15 5N 14E SWEET GRASS

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: FLOWING

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

ID Acres Govt Lot Otr Sec Sec Twp Rge County

1 NENESW 15 5N 14E SWEET GRASS

ABSTRACT OF WATER RIGHT CLAIM

MUSSELSHELL RIVER, ABOVE ROUNDUP

BASIN 40A

Water Right Number: 40A 30109102 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: CAYUSE LIVESTOCK CO

316A MELVILLE RD

BIG TIMBER, MT 59011 7704

Priority Date: MARCH 21, 1891

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: 12.00 GPM

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR

STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND

HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name SPRING, UNNAMED TRIBUTARY OF FISH CREEK

Source Type: GROUNDWATER

ALSO KNOWN AS SOUTH PASTURE BIG SPRING

Point of Diversion and Means of Diversion:

<u>ID</u> <u>Govt Lot</u> <u>Otr Sec</u> <u>Sec</u> <u>Twp</u> <u>Rge</u> <u>County</u>

1 NENENE 21 5N 14E SWEET GRASS

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DEVELOPED SPRING

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

ID Acres Govt Lot Qtr Sec Sec Twp Rge County

1 NENENE 21 5N 14E SWEET GRASS

ABSTRACT OF WATER RIGHT CLAIM

MUSSELSHELL RIVER, ABOVE ROUNDUP

BASIN 40A

Water Right Number: 40A 30109104 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: CAYUSE LIVESTOCK CO

316A MELVILLE RD

BIG TIMBER, MT 59011 7704

Priority Date: MARCH 21, 1891

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: 12.00 GPM

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR

STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND

HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name SPRING, UNNAMED TRIBUTARY OF SADIE CREEK

Source Type: GROUNDWATER

ALSO KNOWN AS COX BOTTOM SPRING

Point of Diversion and Means of Diversion:

<u>ID</u> <u>Govt Lot</u> <u>Otr Sec</u> <u>Sec</u> <u>Twp</u> <u>Rge</u> <u>County</u>

1 NENWSW 17 5N 15E SWEET GRASS

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DEVELOPED SPRING

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

ID Acres Govt Lot Qtr Sec Sec Twp Rge County

1 NENWSW 17 5N 15E SWEET GRASS

ABSTRACT OF WATER RIGHT CLAIM

MUSSELSHELL RIVER, ABOVE ROUNDUP

BASIN 40A

Water Right Number: 40A 30109105 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: CAYUSE LIVESTOCK CO

316A MELVILLE RD

BIG TIMBER, MT 59011 7704

Priority Date: MARCH 21, 1891

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: 12.00 GPM

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR

STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND

HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name SPRING, UNNAMED TRIBUTARY OF SADIE CREEK

Source Type: GROUNDWATER

ALSO KNOWN AS WINDMILL SPRING

Point of Diversion and Means of Diversion:

<u>ID</u> <u>Govt Lot</u> <u>Otr Sec</u> <u>Sec</u> <u>Twp</u> <u>Rge</u> <u>County</u>

1 SWSENE 13 5N 14E SWEET GRASS

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DEVELOPED SPRING

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

ID Acres Govt Lot Otr Sec Sec Twp Rge County

1 SWSENE 13 5N 14E SWEET GRASS

ABSTRACT OF WATER RIGHT CLAIM

MUSSELSHELL RIVER, ABOVE ROUNDUP

BASIN 40A

Water Right Number: 40A 30109106 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: CAYUSE LIVESTOCK CO

316A MELVILLE RD

BIG TIMBER, MT 59011 7704

Priority Date: MARCH 21, 1891

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS

OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY

TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR

STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND

HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name SADIE CREEK

Source Type: SURFACE WATER

Source Name UNNAMED TRIBUTARY OF SADIE CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

| <u>ID</u> | Govt Lot | Qtr Sec | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | County |
|-----------|----------|----------------|------------|------------|------------|---------------|
|-----------|----------|----------------|------------|------------|------------|---------------|

1 13 5N 14E SWEET GRASS

Source Name: SADIE CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2 NE 23 5N 14E SWEET GRASS

Source Name: SADIE CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

3 NW 24 5N 14E SWEET GRASS

Source Name: SADIE CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

4 S2 24 5N 14E SWEET GRASS

Source Name: UNNAMED TRIBUTARY OF SADIE CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

| 5 | | N2 | 25 | 5N | 14E | SWEET GRASS |
|--------------|------------------|----------|---------|-----|-----|-------------|
| Source Name: | UNNAMED TRIBUTAR | Y OF SAI | DIE CRE | ΞEK | | |

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

6 17 5N 15E SWEET GRASS

Source Name: UNNAMED TRIBUTARY OF SADIE CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

7 18 5N 15E SWEET GRASS

Source Name: UNNAMED TRIBUTARY OF SADIE CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

8 19 5N 15E SWEET GRASS

Source Name: UNNAMED TRIBUTARY OF SADIE CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

9 30 5N 15E SWEET GRASS

Source Name: UNNAMED TRIBUTARY OF SADIE CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

| <u>ID</u> | <u>Acres</u> | Govt Lot | <u>Qtr Sec</u> | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | <u>County</u> |
|-----------|--------------|----------|----------------|------------|------------|------------|---------------|
| 1 | | | | 13 | 5N | 14E | SWEET GRASS |
| 2 | | | NE | 23 | 5N | 14E | SWEET GRASS |
| 3 | | | NW | 24 | 5N | 14E | SWEET GRASS |
| 4 | | | S2 | 24 | 5N | 14E | SWEET GRASS |
| 5 | | | N2 | 25 | 5N | 14E | SWEET GRASS |
| 6 | | | | 17 | 5N | 15E | SWEET GRASS |
| 7 | | | | 18 | 5N | 15E | SWEET GRASS |
| 8 | | | | 19 | 5N | 15E | SWEET GRASS |
| 9 | | | | 30 | 5N | 15E | SWEET GRASS |
| | | | | | | | |

ABSTRACT OF WATER RIGHT CLAIM

MUSSELSHELL RIVER, ABOVE ROUNDUP

BASIN 40A

Water Right Number: 40A 30109107 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: CAYUSE LIVESTOCK CO

316A MELVILLE RD

BIG TIMBER, MT 59011 7704

Priority Date: MARCH 21, 1891

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS

OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY

TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR

STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND

HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name SPRING, UNNAMED TRIBUTARY OF FISH CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID Govt Lot Otr Sec Sec Twp Rge County

1 NWNESW 8 5N 14E SWEET GRASS

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

ID Acres Govt Lot Otr Sec Sec Twp Rge County

1 NWNESW 8 5N 14E SWEET GRASS

ABSTRACT OF WATER RIGHT CLAIM

MUSSELSHELL RIVER, ABOVE ROUNDUP

BASIN 40A

Water Right Number: 40A 30109108 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: CAYUSE LIVESTOCK CO

316A MELVILLE RD

BIG TIMBER, MT 59011 7704

Priority Date: MARCH 21, 1891

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS

OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY

TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR

STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND

HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name FISH CREEK

Source Type: SURFACE WATER

Source Name UNNAMED TRIBUTARY OF FISH CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u> <u>Govt Lot</u> <u>Qtr Sec</u> <u>Sec</u> <u>Twp</u> <u>Rge</u> <u>County</u>

1 NE 8 5N 14E SWEET GRASS

Source Name: FISH CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

NWNE 8 5N 14E SWEET GRASS

Source Name: UNNAMED TRIBUTARY OF FISH CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

3 N2SE 8 5N 14E SWEET GRASS

Source Name: UNNAMED TRIBUTARY OF FISH CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

4 SESE 8 5N 14E SWEET GRASS

Source Name: UNNAMED TRIBUTARY OF FISH CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Source Name:

5 SW 5N 14E SWEET GRASS UNNAMED TRIBUTARY OF FISH CREEK **Source Name:** JANUARY 1 TO DECEMBER 31 **Period of Diversion: Diversion Means:** LIVESTOCK DIRECT FROM SOURCE N2 9 5N 14E **SWEET GRASS Source Name:** FISH CREEK **Period of Diversion:** JANUARY 1 TO DECEMBER 31 **Diversion Means:** LIVESTOCK DIRECT FROM SOURCE 7 S₂ 9 5N 14E **SWEET GRASS Source Name:** UNNAMED TRIBUTARY OF FISH CREEK **Period of Diversion:** JANUARY 1 TO DECEMBER 31 **Diversion Means:** LIVESTOCK DIRECT FROM SOURCE 8 N2SE 9 5N 14E **SWEET GRASS Source Name:** FISH CREEK **Period of Diversion:** JANUARY 1 TO DECEMBER 31 **Diversion Means:** LIVESTOCK DIRECT FROM SOURCE 9 14 14E **SWEET GRASS** 5N UNNAMED TRIBUTARY OF FISH CREEK **Source Name: Period of Diversion:** JANUARY 1 TO DECEMBER 31 **Diversion Means:** LIVESTOCK DIRECT FROM SOURCE **SWEET GRASS** 10 15 5N 14E UNNAMED TRIBUTARY OF FISH CREEK **Source Name:** JANUARY 1 TO DECEMBER 31 **Period of Diversion:** LIVESTOCK DIRECT FROM SOURCE **Diversion Means:** 11 NE 18 5N 14E **SWEET GRASS Source Name:** UNNAMED TRIBUTARY OF FISH CREEK **Period of Diversion:** JANUARY 1 TO DECEMBER 31 **Diversion Means:** LIVESTOCK DIRECT FROM SOURCE 12 W2 14E **SWEET GRASS** 18 5N **Source Name:** UNNAMED TRIBUTARY OF FISH CREEK **Period of Diversion:** JANUARY 1 TO DECEMBER 31 LIVESTOCK DIRECT FROM SOURCE **Diversion Means:** 13 20 5N 14E **SWEET GRASS Source Name:** UNNAMED TRIBUTARY OF FISH CREEK **Period of Diversion:** JANUARY 1 TO DECEMBER 31 **Diversion Means:** LIVESTOCK DIRECT FROM SOURCE 14 21 5N 14E SWEET GRASS UNNAMED TRIBUTARY OF FISH CREEK **Source Name: Period of Diversion:** JANUARY 1 TO DECEMBER 31 **Diversion Means:** LIVESTOCK DIRECT FROM SOURCE 15 NWNW 22 5N 14E SWEET GRASS

UNNAMED TRIBUTARY OF FISH CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

16 NW 23 5N 14E SWEET GRASS

Source Name: UNNAMED TRIBUTARY OF FISH CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

| <u>ID</u> | <u>Acres</u> | Govt Lot | Qtr Sec | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | County |
|-----------|--------------|----------|---------|------------|------------|------------|---------------|
| 1 | | | NE | 8 | 5N | 14E | SWEET GRASS |
| 2 | | | NWNE | 8 | 5N | 14E | SWEET GRASS |
| 3 | | | N2SE | 8 | 5N | 14E | SWEET GRASS |
| 4 | | | SESE | 8 | 5N | 14E | SWEET GRASS |
| 5 | | | SW | 8 | 5N | 14E | SWEET GRASS |
| 6 | | | N2 | 9 | 5N | 14E | SWEET GRASS |
| 7 | | | S2 | 9 | 5N | 14E | SWEET GRASS |
| 8 | | | N2SE | 9 | 5N | 14E | SWEET GRASS |
| 9 | | | | 14 | 5N | 14E | SWEET GRASS |
| 10 | | | | 15 | 5N | 14E | SWEET GRASS |
| 11 | | | NE | 18 | 5N | 14E | SWEET GRASS |
| 12 | | | W2 | 18 | 5N | 14E | SWEET GRASS |
| 13 | | | | 20 | 5N | 14E | SWEET GRASS |
| 14 | | | | 21 | 5N | 14E | SWEET GRASS |
| 15 | | | NWNW | 22 | 5N | 14E | SWEET GRASS |
| 16 | | | NW | 23 | 5N | 14E | SWEET GRASS |